

THE LAW OFFICES OF SEAN M. MAHER, PLLC

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January 3, 2020

**VIA ECF**

The Honorable Paul A. Crotty  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

**RE: *United States v. Joshua Adam Schulte*,  
17 Cr. 548 (PAC)**

Dear Judge Crotty:

I respectfully write to inform the Court that I have reviewed Mr. Schulte's trial counsels' motions for reconsideration dated January 2, 2020<sup>1</sup> and January 3, 2020,<sup>2</sup> and that I join in the relief requested and urge the Court to grant both motions.

For all of the reasons raised by trial and *Curcio* counsel,<sup>3</sup> I agree that Ms. Shroff and the Federal Defenders Office have an actual conflict of interest precluding them from providing effective representation at trial. That conflict is not waivable, and even if it were, Mr. Schulte does not want to waive the conflict. As detailed by his present trial team, the nature of the actual conflict necessitates the disqualification of the current trial team (Ms. Shroff and the Federal Defenders Office), and the Court should grant this relief.

As the record makes clear, Mr. Schulte declines to waive his attorney-client privilege and the Court should not divulge or order any party to divulge to a third party any attorney-client communication or work product at this stage of the proceedings.<sup>4</sup>

I wish to highlight for the Court the limited role that I was assigned to assume. I was appointed by this Court as *Curcio* counsel. My role is limited and I am not trial counsel in this

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<sup>1</sup> Doc. No. 231.

<sup>2</sup> Doc. No. 232.

<sup>3</sup> Doc. Nos. 231 and 218 (filed partially under seal); *see* Doc. Nos. 128 (filed partially under seal), 139, 150 (filed partially under seal), 157, 220, 232; *see also* *Curcio* Hearing transcript of December 18, 2019 at 4-16, 18, 24, 26-32, 36-38, 40-44 (filed partially under seal).

<sup>4</sup> Doc. Nos. 232 and 218 (filed partially under seal); *see* Doc. Nos. 128 (filed partially under seal), 139, 150 (filed partially under seal), 157, 220, 231; *see also* *Curcio* Hearing transcript of December 18, 2019 at 4-16, 18, 24, 26-32, 36-38, 40-44 (filed partially under seal).

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matter. Nor have I had access to or the time to review and digest the voluminous amount of material and all of the legal intricacies involved in this litigation. While I have been able to assist Mr. Schulte with the tasks set forth in the Court's *Curcio* Order,<sup>5</sup> I could not advise him now on whether or not to call either Ms. Shroff or Mr. Larsen at trial. Such a task would require me to know the trial evidence the government seeks to introduce. Only then could I determine which of the two lawyers, Ms. Shroff or Mr. Larsen, would be the better witness. It could be that the evidence being introduced calls for both lawyers to be called as witnesses or it could be that neither would make for a good witness. To advise Mr. Schulte now would require me to have a sense of the case as a whole.

In addition, any limited advice I could give now could change mid-trial. Pretrial decisions often change as the government's case develops at trial or even after the government has rested. The final decision of whether to call any defense witnesses can be made only after the government has rested. Requiring Mr. Schulte to make a tactical decision now is improper, especially where trial counsel have an actual conflict of interest and I do not have anywhere near the requisite familiarity with the facts of the case. Nor is there the possibility that a lawyer could be brought up to speed in the next four weeks and be in a position to give such advice to Mr. Schulte. Neither Mr. Schulte nor I should be placed in such an untenable position. *See, e.g.*, Doc. No. 218 ¶¶ 16-19.

Only conflict-free counsel who has a full sense of the case -- the classified and unclassified discovery, the complicated forensic information, and knowledge of what other witnesses, including rebuttal witnesses, might say -- should advise Mr. Schulte on this matter.

Respectfully submitted,

/S/  
Sean M. Maher  
*Curcio Counsel for Joshua Adam Schulte*

cc: All counsel via ECF

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<sup>5</sup> Doc. No. 177.